IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.Revision No.87 of 2007

Decided on: ***October 25, 2007.***

Champa Devi ***…Petitioner.***

VERSUS

Gopal Lal & Ors. ***….Respondents.***

Coram

The Hon'ble Mr.Justice Kuldip Singh, Judge.

Whether approved for reporting?[1] No

***For the petitioner*:** **Mr.Rajiv Jiwan, Advocate.**

***For respondents*:** **Ms.Anu Tuli vice Mr.Satya Vrat Sharma, Advocate for respondents No.1 and 2.**

Mr.M.L.Chauhan, Addl.A.G., for respondent No.3.

Kuldip Singh, Judge (Oral)

This revision has been filed by complainant against the judgment of acquittal dated 1.2.2007 passed by learned Chief Judicial Magistrate, Bilaspur in case No.76/2 of 2005 acquitting respondents under Sections 430, 427, 506 read with Section 34 I.P.C. in F.I.R. No.229/2005 dated 26.6.2005 registered at Police Station, Sadar, Bilaspur.

2. The facts of the case in brief are that complainant Champa Devi had water supply through G.I. Pipes from water source Lakhanpur. She has alleged that on 22.6.2005 at about 6.15 a.m. the respondents removed and damaged the water

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Whether the reporters of the local papers may be allowed to see the judgment? Yes

pipeline through which complainant was enjoying water facility to her house. The occurrence is allegedly witnessed by Sajid and Avinesh Sharma. It has also been alleged that when complainant asked the respondents why they have damaged the pipes then they threatened her to do away her life. The matter was reported to the police, after completion of the investigation challan was presented in the Court. The respondents were charged for having committed offence under Sections 430, 427, 506 read with Section 34 I.P.C. to which they pleaded not guilty and claimed trial. The prosecution has examined six witnesses. The statements of respondents were recorded under Section 313 Cr.P.C., they denied all allegations against them. They did not lead any evidence in defence. The learned Chief Judicial Magistrate acquitted the respondents, as noticed above. The State has opted not to file any appeal. Hence, the complainant has filed the present revision petition.

3. I have heard learned counsel for the petitioner, learned counsel appearing for respondents No.1 and 2 and learned Additional Advocate General for respondent No.3 State and gone through the record. PW-6 Champa Devi complainant has stated that on 22.6.2005 at about 6.15 a.m. she saw respondents removing the pipes but in cross examination she has stated that when she reached the spot the respondents had already ran away and she could not tell how and by what means the respondents had damaged the pipeline. It is not the case of the complainant that the respondents removed, damaged the

pipeline with bare hands. PW-2 Avinesh Sharma has not supported the prosecution and was declared hostile. PW-1 Sajid is a fast friend of the son of complainant, therefore, his statement is to be seen very closely. He has stated that when he and Avinesh reached near the land of Ravi Dutt Sharma they had seen that the respondents were removing the pipes. His statement has not been supported by PW-2 Avinesh. He has not stated that the respondents threatened PW-6 Champa Devi that they would kill her. There are material contradictions in the statements of PW-1 Sajid and PW-6 Champa Devi. PW-6 has alleged that she asked the respondents to restore the pipeline but it is not so stated by PW-1 Sajid. The other witnesses are formal in nature. The learned Chief Judicial Magistrate has rightly appreciated the material on record and acquitted the respondents. The State has accepted the verdict of learned Chief Judicial Magistrate by not assailing the judgment of acquittal. The scope in revision is limited and appreciation of evidence is not permissible. The learned counsel for the petitioner has failed to point out legal defect in the judgment. No interference is required. Hence, the revision is dismissed.

October 25, 2007 ***(Kuldip Singh), J.***

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